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असाधारण

EXTRAORDINARY

भाग II — खण्ड 2

PART II — Section 2

प्राधिकार से प्रकाशित

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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।
Separate paging is given to this Part in order that it may be filed as a separate compilation.

LOK SABHA

The following Bill was introduced in Lok Sabha on 3rd August, 2018:—

BILL NO.140 OF 2018

*A Bill further to amend the Scheduled Castes and the Scheduled Tribes
(Prevention of Atrocities) Act, 1989.*

BE it enacted by Parliament in the Sixty-ninth Year of the Republic of India as follows:—

1. (1) This Act may be called the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Amendment Act, 2018.

Short title and
commencement.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Insertion of
new section
18A.

2. After section 18 of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989, the following section shall be inserted, namely:—

33 of 1989.

No enquiry or
approval
required.

"18A. (1) For the purposes of this Act,—

(a) preliminary enquiry shall not be required for registration of a First Information Report against any person; or

(b) the investigating officer shall not require approval for the arrest, if necessary, of any person,

against whom an accusation of having committed an offence under this Act has been made and no procedure other than that provided under this Act or the Code shall apply.

(2) The provisions of section 438 of the Code shall not apply to a case under this Act, notwithstanding any judgment or order or direction of any Court."

STATEMENT OF OBJECTS AND REASONS

The Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 (said Act) was enacted with a view to prevent the commission of offences of atrocities against the members of the Scheduled Castes and the Scheduled Tribes and to provide for Special Courts and exclusive Special Courts for the trial of such offences and for the relief and rehabilitation of the victims of such offences. The said Act was amended in 2015 with an objective to deliver greater justice to members of the Scheduled Castes and the Scheduled Tribes.

2. In a recent judgment, the Supreme Court has held that a preliminary enquiry shall be conducted by a Deputy Superintendent of Police to find out whether allegations make out a case under the said Act before registering a First Information Report relating to commission of an offence and the approval of an appropriate authority shall be obtained before arrest of any person in connection with such offence.

3. However, the provisions of the Code of Criminal Procedure, 1973 provide that every information relating to commission of an offence, if given, shall be recorded and where the investigating officer has reason to suspect the commission of an offence, he can arrest a person and there is no requirement of conducting a preliminary enquiry before recording of any such information or obtaining of an approval from any authority before arresting any person. Moreover, such preliminary enquiry and approval would only delay the filing of a charge sheet.

4. The principles of criminal jurisprudence and section 41 of the Code of Criminal Procedure, 1973 as interpreted in several judgments, implies that once the investigating officer has reasons to suspect that an offence has been committed, he can arrest an accused. This decision to arrest or not to arrest cannot be taken away from the investigating officer.

5. In view of the above, it is expedient in the public interest that the provisions of the Code of Criminal Procedure, 1973 be made applicable in respect of registration of First Information Report relating to commission of an offence or arrest of any person without any preliminary enquiry or approval of any authority, as the case may be.

6. The Bill seeks to achieve the above objects.

NEW DELHI;

THAAWARCHAND GEHLOT.

The 2nd August, 2018.

SNEHLATA SHRIVASTAVA
Secretary General